

REMARKS

A. REQUEST FOR RECONSIDERATION

Applicant has carefully considered the matters raised by the Examiner in the outstanding Office Action dated August 20, 2009 but remains of the opinion that patentable subject matter is present. Applicant respectfully requests reconsideration of the Examiner's position based on the amendments to the claims and the following remarks.

B. STATUS OF THE CLAIMS

Claims 29-55 are pending in this application, claim 55 has been withdrawn as the result of a previous Restriction Requirement and claims 30, 32, 34-40, 43-44, 46-52 and 54 have been amended herein.

Claim 30 has been amended herein to remove the phrase "or the like".

Claims 32, 34-38, 40, 43, 46-52 and 54 have been amended herein to remove improper multiple dependencies.

Claim 39 has been amended herein to correct typographical errors.

Claim 44 has been amended herein to remove the phrase "which is preferred".

Claim 54 has also been amended herein to correct typographical errors.

No new matter has been added herein.

C. CLAIM OBJECTIONS

Claim 54 had been objected to for misspelling the word "cyhalothrin". Claim 54 has been amended herein to correct this typographical error.

Claims 34-54 had been objected to for being in improper multiple dependent format. As noted above, the claims have been amended herein to remove multiple dependencies.

Applicant respectfully submits that the claims are in proper format.

D. CLAIM REJECTIONS UNDER 35 USC § 112, SECOND PARAGRAPH

The Examiner rejected claim 30 for containing the phrase "or the like". As noted above, claim 30 has been amended herein to remove this phrase from the claim. Accordingly, Applicant

respectfully requests reconsideration and removal of this rejection in view of the amendment made to claim 30.

E. PRIOR ART REJECTIONS

The Examiner made the following prior art rejections:

(1) Claims 29 and 31-33 are rejected under 35 USC 103(a) as being unpatentable over Hyman (US 4,161,283); and

(2) Claim 30 is rejected under 35 USC 103(a) as being unpatentable over Hyman and further in view of Geary (US 2,911,756).

Turning to prior art rejection (1), Hyman teaches a removable barrier layer which permits the dispersion of volatile substance, i.e. insect control agent (col. 6, line 61-col. 7, line 27). The Examiner has taken the position that it would have been obvious to one of ordinary skill to adjust Hyman so as to arrive at the instantly claimed invention. Applicant disagrees. The claimed invention is directed to a system for controlling insects including a tape with target zones spaced apart at predetermined intervals, the target zones having an insect attractant and an insect control agent. There is no teaching or suggestion anywhere in Hyman to (1) combine both an insect attractant and insect control agent at the same time, (2) not include a removable barrier layer which allows for the release of the volatile substance, or (3) provide an elongate tape as is required in the claimed invention.

In contrast, the claimed invention requires a reservoir having a semi-permeable layer coated with an insecticide. See, for example, Figure 15. Unlike the invention disclosed in Hyman, the claimed invention does not require removing a barrier layer in order to release the insect control agent. Clearly the claimed invention is completely different from the invention taught in Hyman. Respectfully, one of skill in the art would not arrive at the claimed invention based on the teachings of Hyman. The differences between the claimed system and Hyman are clearly more than what one could arrive at by “adjusting” as proposed by the Examiner.

Turning to prior art rejection (2), Geary does not teach that the target zones are spaced at predetermined intervals along the product, whereas the claimed invention requires this limitation. Furthermore, Geary teaches that the mechanism by which insects are killed involves the adhesion of the insect to a sticky layer of the product containing both an insecticide and an attractant, ensuring that the insect will be trapped and killed on the product (see col. 1, lines 55-64). Thus,

the mechanism by which the claimed invention combats insects is significantly different from the mechanism disclosed in Geary. The advantage of the claimed invention is that, unlike the mechanism of Geary, the insect does not remain on the tape, but falls to the ground as the insecticide kills the insect. As a consequence, the surface of the claimed invention remains free and is not cluttered with trapped insects. This increases the lifetime of the material. Since Geary teaches away from the claimed invention, the teachings of Geary lead those of skill in the art away from the claimed invention.

Moreover, even if one of skill in the art were to combine the teachings of Hyman and Geary, they would not arrive at the claimed invention. The combined teachings of Hyman and Geary results in a product for combating insects, having a sticky surface layer containing both an insect attractant and an insecticide. This is not the system for controlling insects as claimed herein.

Furthermore, claim 30 is dependent from claim 29, which was not rejected on the basis of this combination of references. Applicants have already demonstrated that claim 29 distinguishes over the prior art of record. Claim 30, as dependent therefrom, also distinguishes over the prior art. The selection of a feature arguably found in Geary and recited in a dependent claim does not negate the patentability of the claim when the claim depends from an allowable base claim.

Since none of the references cited by the Examiner, either alone, or in combination, teach the claimed system for controlling insects, it is respectfully submitted that the claims presented herein are patentable over the Examiner's rejections.

F. FEES

This response is being filed with a request for a two-month extension of time, the required fee paid concurrently herewith. No further fee is believed to be due. If, on the other hand, it is determined that any further fees are due or any overpayment has been made, the Assistant Commissioner is hereby authorized to debit or credit such sum to Deposit Account No. 02-2275.

Pursuant to 37 C.F.R. 1.136(a)(3), please treat this and any concurrent or future reply in this application that requires a petition for an extension of time for its timely submission as incorporating a petition for extension of time for the appropriate length of time. The fee associated therewith is to be charged to Deposit Account No. 02-2275.

An early and favorable action on the merits is earnestly solicited.

Respectfully submitted,
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